said target nodes being arranged to install each package once the package is received;

such that the complete software package is installed on each of said first and second target nodes.

9. (Twice Amended) A method of distributing a software package to at least a first and second target node over at least one common network link, said software package comprising at least a first package and a second package, wherein the contents of said second package are determined by a distribution server before the contents are distributed without the at least first and second target nodes initiating the distribution, said first software package already being present on said second node, said method comprising:

sending said software package over said common network link; thereafter sending only said second package to said second target node; and sending said software package to said first target node;

such that both the first and second packages are distributed to both said first and second target nodes.

REMARKS

Upon entry of the foregoing amendments, Claims 1-9 are pending in the application, with Claims 1, 8, and 9 being the independent claims.

Applicants wish to thank Examiner Prieto for the thorough analysis of the claims and the art of record, and for granting the telephone interview. Applicants respectfully submit that the claims have been amended in a manner consistent with the issues discussed during the interview, are supported by the specification, and are in condition for allowance.

The Office Action indicated that the "features upon which applicant relies (i.e., the contents of said first and second package are determined by a distribution server before the contents are

distributed without (in contrast) the target nodes initiate the software distribution process by first sending a status report to a server (or higher level node)) are not recited in the rejected claims(s), ... [and this] argued contrast is contrary to applicant's specification and may create questionable ennoblement [sic] issues." Applicant respectfully disagrees.

First, the claims of the present application recite that "the contents of said first and second package are determined by a distribution server before the contents are distributed without the . . . target nodes initiating [the distribution]." This claim language is supported in Applicants' specification. See, e.g., specification, page 3, lines 15-25. Applicant also notes that the substitution of the words "such that" for the word "whereby," and the deletion of the words "the steps of" are made by the Applicant for stylistic reasons, are not substantive changes, and do not narrow the scope of the claims.

Second, the Office Action erroneously concludes that the argued contrast is contrary to Applicant's specification and may create questionable enablement issues. The passage of the specification relied upon to support this conclusion in fact describes multiple embodiments, one of which is claimed in Claims 1, 8, and 9.

For at least the reasons set forth above, a proper combination of Otto and Shing fail to suggest or teach all the elements of independent Claims 1, 8, and 9. The dependent Claims 2-7 are dependent either directly or indirectly on Claim 1, and are allowable for at least the same reasons set forth herein with respect to independent Claim 1, and further in view of their own respective features.

CONCLUSION

Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. If this amendment does not place this application in condition for allowance, the Examiner is invited to contact the undersigned by telephone should the Examiner believe that personal communication will expedite prosecution of this application.

Respectfully submitted,

PIPER RUDNICK LLP

Steven B. Kelber
Registration No. 30,073
Attorney of Record

Lisa Norton
Registration No. 44,977

1200 Nineteenth Street, N.W.
Washington, D.C. 20036-2412
Telephone No. (202) 861-3900
Facsimile No. (202) 223-2085

MARKED-UP COPY OF AMENDED CLAIMS

1. (Twice Amended) Apparatus for hierarchical software distribution allowing distribution of a software package comprising at least a first and second package to a plurality of target nodes, wherein the contents of said first and second package are determined by a distribution server before the contents are distributed <u>without the plurality of target nodes initiating the distribution</u>, said apparatus comprising:

a distribution node for transmitting packages of software;

a first branch node in communication with said distribution node, said first branch node being arranged to receive said software package from said distribution node;

first and second target nodes, said first target node being in communication with said first branch node via a first network link, and said second target node being in communication with said first branch node via a second network link; said first package already being present on said second target node;

said first branch node being arranged to transmit said software package over said first network link, and said second package over only said second network link;

<u>such that</u> [whereby] both the first and second packages are distributed to both said first and second target nodes.

8. (Twice Amended) Apparatus for hierarchal software distribution allowing distribution of a software package comprising at least a first and second package to a plurality of target nodes, wherein the contents of said first and second package are determined by a distribution server

before the contents are distributed <u>without the plurality of target nodes initiating the distribution,</u> said apparatus comprising:

a distribution node for transmitting packages of software;

at least one branch node in communication with said distribution node; and

first and second target nodes, said first target node being in communication with said branch node via a first network link, and said second target node being in communication with said branch node via a second network link; said first package already being present on said second target node;

each branch node being arranged to receive each of said first and second packages from said distribution node independently;

said branch node being arranged to transmit said first package via said first and second network links to said first and second target nodes, and said second package via said second network link to said second target node; and

said target nodes being arranged to install each package once the package is received;

<u>such that</u> [whereby] the complete software package is installed on each of said first and second target nodes.

9. (Twice Amended) A method of distributing a software package to at least a first and second target node over at least one common network link, said software package comprising at least a first package and a second package, wherein the contents of said second package are determined by a distribution server before the contents are distributed <u>without the at least first and second target nodes initiating the distribution,</u> said first software package already being present on said second node, said method comprising [the steps of]:

sending said software package over said common network link; thereafter sending only said second package to said second target node; and sending said software package to said first target node;

such that [whereby] both the first and second packages are distributed to both said first and second target nodes.